



General Assembly

January Session, 2011

Raised Bill No. 6620

LCO No. 4820

04820_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING CONDOMINIUMS AND COMMON INTEREST OWNERSHIP COMMUNITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2012*) (a) For the purposes of
2 this section and sections 2 to 4, inclusive, of this act:

3 (1) "Board of directors" means a board of directors, as defined in
4 section 47-68a of the general statutes, of a condominium;

5 (2) "Commissioner" means the Commissioner of Consumer
6 Protection;

7 (3) "Community association manager" means a community
8 association manager, as defined in section 20-450 of the general
9 statutes;

10 (4) "Common interest community" means a common interest
11 community, as defined in section 47-202 of the general statutes;

12 (5) "Condominium" means a condominium, as defined in section 47-
13 68a of the general statutes;

14 (6) "Executive board" means an executive board, as defined in
15 section 47-202 of the general statutes, of a common interest
16 community; and

17 (7) "Unit owner" means a unit owner, as defined in section 47-68a or
18 47-202 of the general statutes.

19 (b) There is established an Office of Condominium Ombudsman
20 within the Department of Consumer Protection. The Office of
21 Condominium Ombudsman shall be under the direction of the
22 Commissioner of Consumer Protection, or the commissioner's
23 designee.

24 (c) With respect to the Office of Condominium Ombudsman, the
25 Commissioner of Consumer Protection, or the commissioner's
26 designee may:

27 (1) Investigate and resolve complaints concerning unit owners,
28 boards of directors, executive boards, community association
29 managers and managing agents of condominiums or common interest
30 communities;

31 (2) Analyze the laws regarding condominiums and common interest
32 communities and make recommendations to the Governor and the
33 General Assembly for legislation;

34 (3) Publish information concerning laws and regulations related to
35 condominiums and common interest communities; and

36 (4) Refer any complaint received by the office to the appropriate law
37 enforcement agency for prosecution, if deemed appropriate by the
38 commissioner.

39 (d) The Commissioner of Consumer Protection may adopt
40 regulations, in accordance with chapter 54 of the general statutes, to
41 implement this section and sections 2 to 4, inclusive, of this act.

42 Sec. 2. (NEW) (*Effective January 1, 2012*) (a) Any unit owner or group
43 of unit owners may file a request with the Office of Condominium
44 Ombudsman that the commissioner or the commissioner's designee
45 review the complaint of the unit owner or group of unit owners
46 regarding alleged violations of any provision of chapter 825 or 828 of
47 the general statutes, as the case may be, or a bylaw of a condominium
48 association or common interest community association concerning the
49 budget and appropriation of condominium association or common
50 interest community association funds, the calling and conduct of
51 condominium association or common interest community association
52 meetings, or access to public records of the condominium association
53 or common interest community association, provided (1) the complaint
54 of the unit owner or group of unit owners was reviewed through the
55 dispute resolution process established in section 3 of this act, or (2) the
56 unit owner or group of unit owners has filed a sworn affidavit that the
57 condominium association or common interest community association
58 has not established such dispute resolution process. Such request shall
59 be in writing, on such form as the commissioner may prescribe, and
60 shall be accompanied by a fee of thirty-five dollars. Upon receipt of
61 such request and after a determination by the commissioner or the
62 commissioner's designee that such complaint presents a colorable
63 claim of a violation of any of said provisions of statute or bylaws and
64 that such complaint was not filed with malicious intent to unjustly vex
65 or trouble the condominium association, common interest community
66 association or any other person, the commissioner, or the
67 commissioner's designee, shall notify the condominium association or
68 common interest community association that is the subject of the
69 complaint of such request and the fee required by this subsection. Not
70 later than thirty days after receiving notice of the complaint from the
71 commissioner, or the commissioner's designee, the condominium
72 association or common interest community association shall pay to the
73 commissioner a fee of thirty-five dollars. If such condominium
74 association or common interest community association fails to pay
75 such fee not later than thirty days after the date of such notice, the

76 commissioner shall assess a penalty of one hundred dollars against
77 such condominium association or common interest community
78 association, in addition to such thirty-five-dollar fee.

79 (b) The commissioner, or the commissioner's designee, may mediate
80 a complaint pursuant to a request filed under subsection (a) of this
81 section.

82 (c) The commissioner, or the commissioner's designee, may conduct
83 an investigation and make findings and recommendations regarding
84 any matter concerning a violation of chapter 825 of the general
85 statutes, chapter 828 of the general statutes or the bylaws of a
86 condominium association or common interest community association.

87 (d) After notice and a hearing pursuant to chapter 54 of the general
88 statutes, the commissioner may:

89 (1) Issue an order to any person found to have violated any
90 provision of chapter 825 or 828 of the general statutes, or the bylaws of
91 the condominium association or common interest community
92 association, requiring such person to cease such violation;

93 (2) Order any person found to have violated any provision of
94 chapter 825 or 828 of the general statutes, or the bylaws of the
95 condominium association or common interest community association,
96 to make restitution for damages caused by such violation;

97 (3) Assess a penalty up to two hundred dollars per knowing
98 violation; or

99 (4) Through the Attorney General, petition the superior court for the
100 judicial district where the violation occurred for the enforcement of
101 any order issued by the commissioner, or for appropriate temporary
102 relief or a restraining order, and shall certify and file in the court a
103 transcript of the entire record of all hearings, including all testimony
104 upon which such order was made and the findings and orders made
105 by the commissioner. The commissioner shall provide written notice of

106 the filing of such petition to the condominium association or common
107 interest community association not later than three business days after
108 the date such petition is filed in the superior court. The court may
109 grant such relief by injunction or otherwise, including temporary
110 relief, as it deems equitable and may make and enter a decree
111 enforcing, modifying and enforcing as so modified, or setting aside, in
112 whole or in part, any order of the commissioner.

113 (e) Any person aggrieved by a final decision of the commissioner
114 may appeal therefrom in accordance with section 4-183 of the general
115 statutes.

116 (f) Any fee or penalty collected pursuant to this section shall be
117 deposited in the General Fund.

118 Sec. 3. (NEW) (*Effective from passage*) Not later than January 1, 2012,
119 each condominium association or common interest community
120 association shall establish a dispute resolution process for unit owner
121 complaints regarding compliance by the condominium association or
122 common interest community association with any provision of chapter
123 825 of the general statutes, chapter 828 of the general statutes or a
124 bylaw of a condominium association or common interest community
125 association concerning the budget and appropriation of condominium
126 association or common interest community association funds, the
127 calling and conduct of condominium association or common interest
128 community association meetings, or access to public records of the
129 condominium association or common interest community association.
130 The dispute resolution process shall provide the opportunity for the
131 unit owner to be heard regarding such complaint. Any complaint that
132 is not resolved through the dispute resolution process established
133 under this section may be filed with the Office of Condominium
134 Ombudsman on or after January 1, 2012, pursuant to section 2 of this
135 act.

136 Sec. 4. (NEW) (*Effective January 1, 2012*) (a) On January 1, 2012, and
137 annually thereafter, each condominium association and common

138 interest community association shall provide the Commissioner of
139 Consumer Protection a certified copy of the last annual or biennial
140 report of the association filed with the Secretary of the State, and shall
141 pay a fee to the commissioner in an amount of four dollars for each
142 condominium or common interest community unit within such
143 condominium association or common interest community association.
144 Any condominium association or common interest community
145 association that fails to pay such fee shall, in addition to such fee, be
146 assessed a penalty of one hundred dollars for each year such fee was
147 not paid. The Attorney General, upon referral by the commissioner,
148 may bring an action in the superior court to collect such fees and
149 penalties.

150 (b) All fees and penalties collected pursuant to this section shall be
151 deposited by the commissioner in a separate, nonlapsing fund, which
152 shall be solely used for the operational expenditures of the Office of
153 Condominium Ombudsman and for the administration of the
154 programs performed by said office. The commissioner shall annually
155 review such fund and, upon a finding by the commissioner that the
156 balance of the fund is in excess of the amount necessary to operate said
157 office and such programs, shall order that the annual fee collected
158 pursuant to subsection (a) of this section be suspended or reduced
159 until such time as the balance falls below that amount necessary to
160 operate said office and such programs.

161 Sec. 5. Section 20-452 of the general statutes is repealed and the
162 following is substituted in lieu thereof (*Effective January 1, 2012*):

163 (a) Any person seeking a certificate of registration shall apply to the
164 department in writing, on a form provided by the department. Such
165 application shall include the applicant's name, residence address,
166 business address, business telephone number and such other
167 information as the department may require.

168 (b) Each application for a certificate of registration as a community
169 association manager shall be accompanied by an application fee of

170 sixty dollars and a registration fee of [one] four hundred dollars. The
171 department shall refund the registration fee if it refuses to issue a
172 certificate of registration.

173 Sec. 6. Subsection (d) of section 20-457 of the general statutes is
174 repealed and the following is substituted in lieu thereof (*Effective*
175 *January 1, 2012*):

176 (d) All certificates issued under the provisions of sections 20-450 to
177 20-462, inclusive, as amended by this act, shall expire [annually]
178 biennially on the thirty-first day of January in the even-numbered
179 years. The fee for renewal of a certificate shall be [two] four hundred
180 dollars.

181 Sec. 7. Subsections (a) and (b) of section 47-261e of the general
182 statutes are repealed and the following is substituted in lieu thereof
183 (*Effective October 1, 2011*):

184 (a) The executive board, at least annually, shall adopt a proposed
185 budget for the common interest community for consideration by the
186 unit owners. Not later than thirty days after the adoption of a
187 proposed budget, the executive board shall provide to all unit owners
188 a summary of the budget, including a statement of the amount of any
189 reserves, and a statement of the basis on which such reserves are
190 calculated and funded. Simultaneously, the board shall set a date not
191 less than ten days or more than sixty days after providing the
192 summary for either a meeting of the unit owners or a vote by ballot
193 without a meeting to consider approval of the budget. If, at that
194 meeting or in the vote by ballot, a majority of [all] the unit owners
195 voting or any larger number specified in the declaration votes to reject
196 the budget, the budget shall be rejected. If, at that meeting or in the
197 vote by ballot, a majority of [all] the unit owners voting or any larger
198 number specified in the declaration does not vote to reject the budget,
199 the budget shall be approved. The absence of a quorum at such
200 meeting or participating in the vote by ballot shall not affect rejection
201 or approval of the budget. If a proposed budget is rejected, the budget

202 last approved by the unit owners continues until unit owners approve
203 a subsequent budget.

204 (b) The executive board, at any time, may propose a special
205 assessment. Not later than thirty days after adoption of a proposed
206 special assessment, the executive board shall provide to all unit owners
207 a summary of the proposed special assessment. Unless the declaration
208 or bylaws otherwise provide, if such special assessment, together with
209 all other special and emergency assessments proposed by the executive
210 board in the same calendar year, do not exceed fifteen per cent of the
211 association's last adopted periodic budget for that calendar year, the
212 special assessment is effective without approval of the unit owners.
213 Otherwise, the board shall set a date not less than ten days or more
214 than sixty days after providing the summary for either a meeting of the
215 unit owners or a vote by ballot without a meeting to consider approval
216 of the special assessment. If, at such meeting or in the balloting, a
217 majority of [all] the unit owners voting or any larger number specified
218 in the declaration votes to reject the special assessment, the special
219 assessment shall be rejected. If, at such meeting or in the balloting, a
220 majority of [all] the unit owners voting or any larger number specified
221 in the declaration does not vote to reject the special assessment, the
222 special assessment shall be approved. The absence of a quorum at such
223 meeting or participating in the vote by ballot shall not affect the
224 rejection or approval of the special assessment.

225 Sec. 8. Subsection (b) of section 47-255 of the general statutes is
226 repealed and the following is substituted in lieu thereof (*Effective*
227 *October 1, 2011*):

228 (b) In the case of a [building that contains] common interest
229 community having attached units that are divided by either horizontal
230 boundaries described in the declaration, or by vertical boundaries that
231 comprise or are located within common walls between units, the
232 insurance maintained under subdivision (1) of subsection (a) of this
233 section, to the extent reasonably available, shall include the attached

234 units, and all improvements and betterments installed by [unit]
235 owners of the attached units, unless the declaration limits the
236 association's authority to insure all improvements and betterments or
237 the executive board decides, after giving notice and an opportunity for
238 unit owners to comment, not to insure such improvements and
239 betterments. In the case of common interest communities containing
240 more than twelve units, unless the association insures all
241 improvements and betterments, the association shall:

242 (1) Prepare and maintain a schedule of the standard fixtures,
243 improvements and betterments in the units, including any standard
244 wall, floor and ceiling coverings covered by the association's insurance
245 policy;

246 (2) Provide such schedule at least annually to the unit owners in
247 order to enable unit owners to coordinate their homeowners insurance
248 coverage with the coverage afforded by the association's insurance
249 policy; and

250 (3) Include such schedule in any resale certificate prepared pursuant
251 to section 47-270.

252 Sec. 9. Subsection (i) of section 47-255 of the general statutes is
253 repealed and the following is substituted in lieu thereof (*Effective*
254 *October 1, 2011*):

255 (i) The provisions of this section may be varied or waived in the case
256 of (1) a common interest community all of whose units are restricted to
257 nonresidential use, or (2) any building that consists solely of one entire
258 unit when the declaration or bylaws provide that the maintenance,
259 repair and replacement of an entire freestanding unit is the
260 responsibility of the unit owner.

261 Sec. 10. Section 47-218 of the general statutes is repealed and the
262 following is substituted in lieu thereof (*Effective October 1, 2011*):

263 (a) The declaration, bylaws or surveys and plans of any common

264 interest community created before January 1, 1984, may be amended to
265 achieve any result permitted by this chapter regardless of what
266 applicable law provided before January 1, 1984. For any common
267 interest community created before January 1, 1984, the plans and
268 certificate of completion described in subsection (b) of section 47-220
269 and any new survey required to comply with subsection (b) of section
270 47-220 shall not be required under subsection (i) of section 47-228, as
271 amended by this act.

272 (b) Except as otherwise provided in subsections (i) and (j) of section
273 47-236, an amendment to the declaration, bylaws or surveys and plans
274 authorized by subsection (a) of this section shall be adopted in
275 conformity with any procedures and requirements for amending the
276 instruments specified by those instruments or, if there are none, in
277 conformity with the amendment procedures of this chapter. If an
278 amendment grants to any person any rights, powers or privileges
279 permitted by this chapter, all correlative obligations, liabilities and
280 restrictions in this chapter also apply to that person.

281 Sec. 11. Section 47-228 of the general statutes is amended by adding
282 subsection (i) as follows (*Effective October 1, 2011*):

283 (NEW) (i) If the unit owners of a common interest community
284 created before January 1, 1984, elect to be governed by the provisions
285 of this chapter, no new survey or plan and no certificate of completion
286 described in subsection (b) of section 47-220 shall be required for any
287 unit if the delivery of a public offering statement would not be
288 required under either this chapter or chapter 825 if the unit were to be
289 sold.

290 Sec. 12. Subsection (e) of section 47-257 of the general statutes is
291 repealed and the following is substituted in lieu thereof (*Effective*
292 *October 1, 2011*):

293 (e) If any common expense is caused by the [wilful] misconduct,
294 failure to comply with a written maintenance standard promulgated

295 by the association or [gross] negligence of any unit owner or tenant or
296 a guest or invitee of a unit owner or tenant, the association may, after
297 notice and hearing, assess the portion of that common expense in
298 excess of any insurance proceeds received by the association under its
299 insurance policy, whether that portion results from the application of a
300 deductible or otherwise, exclusively against that owner's unit.

301 Sec. 13. Section 47-261b of the general statutes is repealed and the
302 following is substituted in lieu thereof (*Effective October 1, 2011*):

303 (a) (1) For the purposes of this section, "internal business operating
304 procedures" means a specific procedure or set of procedures
305 established by the executive board to administer the affairs of the
306 association which do not authorize the imposition of fines or late fees
307 upon unit owners.

308 (2) At least ten days before adopting, amending or repealing any
309 rule, the executive board shall give all unit owners notice of: (1) The
310 executive board's intention to adopt, amend or repeal a rule and shall
311 include with such notice the text of the proposed rule or amendment,
312 or the text of the rule proposed to be repealed; and (2) the date on
313 which the executive board will act on the proposed rule, amendment
314 or repeal after considering comments from unit owners.

315 (b) Following adoption, amendment or repeal of a rule, the
316 association shall give all unit owners notice of its action and include
317 with such notice a copy of any new or amended rule.

318 (c) Subject to the provisions of the declaration, an association may
319 adopt rules to establish and enforce construction and design criteria
320 and aesthetic standards. If an association adopts such rules, the
321 association shall adopt procedures for enforcement of those rules and
322 for approval of construction applications, including a reasonable time
323 within which the association must act after an application is submitted
324 and the consequences of its failure to act.

325 (d) A rule regulating display of the flag of the United States must be
326 consistent with federal law. In addition, the association may not
327 prohibit display, on a unit or on a limited common element adjoining a
328 unit, of the flag of this state, or signs regarding candidates for public or
329 association office or ballot questions, but the association may adopt
330 rules governing the time, place, size, number and manner of those
331 displays.

332 (e) Unit owners may peacefully assemble on the common elements
333 to consider matters related to the common interest community, but the
334 association may adopt rules governing the time, place and manner of
335 those assemblies.

336 (f) An association may adopt rules that affect the use of or behavior
337 in units that may be used for residential purposes, only to:

338 (1) Implement a provision of the declaration;

339 (2) Regulate any behavior in or occupancy of a unit which violates
340 the declaration or adversely affects the use and enjoyment of other
341 units or the common elements by other unit owners; or

342 (3) Restrict the leasing of residential units to the extent those rules
343 are reasonably designed to meet underwriting requirements of
344 institutional lenders that regularly make loans secured by first
345 mortgages on units in common interest communities or regularly
346 purchase those mortgages, provided no such restriction shall be
347 enforceable unless notice thereof is recorded on the land records of
348 each town in which any part of the common interest community is
349 located. Such notice shall be indexed by the town clerk in the grantor
350 index of such land records in the name of the association.

351 (g) An association's internal business operating procedures need not
352 be adopted as rules.

353 (h) Each rule of the association must be reasonable.

354 Sec. 14. (NEW) (*Effective October 1, 2011*) No member of a board of
355 directors, as defined in section 47-68a of the general statutes, shall be
356 criminally liable for any conduct performed by the member on behalf
357 of the association of unit owners, as defined in section 47-68a of the
358 general statutes, provided such conduct is within the scope of such
359 member's authority.

360 Sec. 15. Section 47-253 of the general statutes is repealed and the
361 following is substituted in lieu thereof (*Effective October 1, 2011*):

362 (a) A unit owner is not liable, solely by reason of being a unit owner,
363 for injury or damage arising out of the condition or use of the common
364 elements. Neither the association nor any unit owner except the
365 declarant is liable for that declarant's torts in connection with any part
366 of the common interest community which that declarant has the
367 responsibility to maintain.

368 (b) An action alleging a wrong done by the association, including an
369 action arising out of the condition or use of the common elements, may
370 be maintained against the association and not against any unit owner.
371 If the wrong occurred during any period of declarant control and the
372 association gives the declarant reasonable notice of and an opportunity
373 to defend against the action, the declarant who then controlled the
374 association is liable to the association or to any unit owner for (1) all
375 tort losses not covered by insurance suffered by the association or that
376 unit owner, and (2) all costs that the association would not have
377 incurred but for a breach of contract or other wrongful act or omission.

378 (c) The declarant is liable to the association for all funds of the
379 association collected during the period of declarant control which were
380 not properly expended.

381 (d) Whenever the declarant is liable to the association under this
382 section, the declarant is also liable for all expenses of litigation,
383 including reasonable attorney's fees, incurred by the association. Any
384 statute of limitation affecting the association's right of action against a

385 declarant under this chapter is tolled until the period of declarant
386 control terminates. A unit owner is not precluded from maintaining an
387 action contemplated by this section because he is a unit owner or a
388 member or officer of the association. Liens resulting from judgments
389 against the association are governed by section 47-259.

390 (e) No member of the executive board shall be criminally liable for
391 any conduct performed by the member on behalf of the association,
392 provided such conduct is within the scope of such member's authority.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2012</i>	New section
Sec. 2	<i>January 1, 2012</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>January 1, 2012</i>	New section
Sec. 5	<i>January 1, 2012</i>	20-452
Sec. 6	<i>January 1, 2012</i>	20-457(d)
Sec. 7	<i>October 1, 2011</i>	47-261e(a) and (b)
Sec. 8	<i>October 1, 2011</i>	47-255(b)
Sec. 9	<i>October 1, 2011</i>	47-255(i)
Sec. 10	<i>October 1, 2011</i>	47-218
Sec. 11	<i>October 1, 2011</i>	47-228
Sec. 12	<i>October 1, 2011</i>	47-257(e)
Sec. 13	<i>October 1, 2011</i>	47-261b
Sec. 14	<i>October 1, 2011</i>	New section
Sec. 15	<i>October 1, 2011</i>	47-253

Statement of Purpose:

To: (1) Establish an Office of Condominium Ombudsman to provide a means of resolving disputes between condominium owners and condominium associations; (2) require that the budget of a common interest community be approved by a majority of the unit owners voting instead of a majority of all unit owners; (3) provide that insurance requirements apply to common interest communities having units divided by either horizontal or vertical boundaries, and provide that such insurance be maintained on behalf of attached units; (4) exclude stand-alone units from insurance requirements when the

declaration and bylaws indicate that the maintenance, repair and replacement of entire freestanding units are the responsibility of the unit owner; (5) exempt certain common interest communities created before January 1, 1984, that elect to be governed by the Common Interest Ownership Act, from the requirement to obtain new surveys, plans and certificates of completion when adding units if a public offering statement is not otherwise required; (6) allow an assessment against a unit owner for common expenses caused by ordinary misconduct or negligence, rather than wilful misconduct or gross negligence as currently provided; (7) define the "internal business operating procedures" that are not required to be adopted as rules; and (8) prohibit criminal prosecutions of members of condominium board of directors or executive boards of common interest communities unless such members are acting outside the scope of their authority.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]